

## Federal Family & Medical Leave Act vs. State Parental & Family Leave Act

Many Vermonters are unaware that they are protected by a generally more comprehensive and far-reaching employment leave statute than the federal Family & Medical Leave Act, 29 U.S.C. §2601 et seq. Unfortunately, many covered Vermont businesses also seem to be unaware of their obligations to meet the requirements of both statutes. The Attorney General's Civil Rights Unit (828-3657 or (888) 745-9195 (toll free in Vermont)) enforces the Vermont Parental & Family Leave Act, 21 V.S.A. §470 et seq., and can be contacted for answers to questions about the Act by employees, employers, or lawyers representing either. Copies of a helpful booklet, published jointly by the Governor's Commission on Women and the Attorney General's office, and entitled "Parental & Family Leave—Questions & Answers" can be obtained from the Governor's Commission (828-2851) or the Attorney General's office. This booklet is available on-line at: <http://www.women.state.vt.us/familyleave.pdf>

The following table illustrates some (but not all) of the differences (and similarities) between the two acts.

	<u><b>Federal Law</b></u>	<u><b>Vermont Law</b></u>
Number of employees required for coverage	50 or more employees (w/in 75 miles)	10 or more employees (parental leave) or 15 or more employees (family & short term leave)—location of employees is not relevant
How long must employee work to be eligible?	12 months ( minimum of 1250 hours)	12 months (avge. 30 hours per week)
Weeks of leave annually	12	12
What is family leave?	Leave for birth or adoption of a child or placement of a child for foster care <u>and</u> in order to care for that child.	Leave for serious illness of employee or family member.
What is parental leave?	Not applicable—see "what is family leave" above.	Leave for pregnancy, birth or adoption of a child under age 16.
What is medical leave?	Leave for serious health condition of employee which prevents him/her from performing job duties or <u>to care for</u> family member with serious health condition	Not applicable-- see "what is family leave" above.
What is a "serious health condition" or a "serious illness"?	A serious health condition is defined as one requiring inpatient care or continuing treatment by a health care provider. DOL regs. define this to include pregnancy or an incapacitating illness of more than 3 calendar days' length.	A serious illness is defined as one requiring inpatient care or continuing treatment by a health care provider. There are no interpretive regulations, but DOL's federal guidelines are persuasive because the statutory definitions are so similar.
For what family members can leave be taken?	Medical leave can be taken to care for the employee's spouse, child or parent with a serious health condition. (Spouse probably does not include civil union partner).	Family leave can be taken for the serious illness of the employee's child, stepchild or ward who lives with the employee, foster child, parent, spouse or parent of spouse. Spouse

<p>Can spouses working for the same employer each take leave based on the same condition/event?</p> <p>Do benefits continue during leave?</p> <p>Who pays for benefits during leave?</p> <p>Can employee use vacation-sick-other paid leave time during leave?</p> <p>Reinstatement of employee required when leave ends?</p> <p>Short term leave available?</p>	<p><b><u>Federal law</u></b></p> <p>Spouses working for the same employer may be limited to a total of 12 weeks of leave for the birth and care of a child, or the placement of a child for adoption of foster care or to care for such a child.</p> <p>Health insurance only</p> <p>Employee/employer each pay the proportion toward health insurance that they did during regular work time.</p> <p>No limitation on amount of such leave employee may use—Employer can <u>require</u> employee to use up such time.</p> <p>Yes—unless employer can show that employee was terminated or denied reinstatement for reasons unrelated to the leave.</p> <p>No.</p>	<p>includes the employee's civil union partner.</p> <p><b><u>Vermont law</u></b></p> <p>Yes. Each spouse is entitled to 12 weeks of leave annually.</p> <p>All benefits continue</p> <p>Employee/employer each pay the proportion of <u>all</u> benefits that they did during regular work time.</p> <p><u>May</u> use up to 6 weeks (at <u>employee's</u> option only) of accrued paid leave time during leave</p> <p>Yes—and employer has burden to prove by <u>clear &amp; convincing evidence</u> that employee was terminated/not reinstated for permitted reasons.</p> <p>Yes, for a broad range of school, medical and professional activities for self, children and other relatives, up to 4 hours per 30 days, up to 24 hours per 12 months, in increments of 2 hours. (7 days' notice required except in case of emergency).</p>
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